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**OFFICE OF THE DIRECTOR
TC 3600**

Vivtor G. Treyz
Fish & Neave
1251 Avenue Of The Americas
New York, NY 10020-1104

In re Application of
Kevin D. Satterfield, et al.
Application No. 09/516,428
Filed: March 1, 2000
For: INTERACTIVE WAGERING SYSTEM
WITH CRITERIA WAGERING

:
:
: **DECISION ON PETITION**
:
: **TO WITHDRAW THE**
: **HOLDING OF ABANDONMENT**

This is a decision on applicants' Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 5, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that a First Office Action rejection was mailed to applicants on June 15, 2004, setting a three-month shortened statutory period for response. Since a response was not received before the expiration of the six-month statutory period for reply, the application became abandoned at midnight on December 15, 2004. A Notice of Abandonment was mailed on December 30, 2004.

Petitioner contends that the June 15, 2004 a First Office Action rejection was not received. In support thereof, petitioner submits, a statement by Adam M. Saltzman, a copy of the front cover of the file folder for the present application, and a copy of the docketing system print-out for all actions relating to Application No. 09/516,428.

There is a strong presumption that an Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of September 15, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The petitioner has failed to comply with requirement (3) indicated above.

The docket record submitted by petitioner is that of the above referenced application. To satisfy requirement (3) above, a docket record showing all responses due by the firm of Fish & Neave, LLP, at and around the due date of September 15, 2004, must be supplied.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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KJD/rwg: 2/10/05